

EXHIBIT A

Certified Transcript

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
Civil Action No.
97-cv-3496 (DRD) (MAS)

WALSH SECURITIES, INC., :
:
Plaintiff, :
:
vs. : VOLUME II
:
:
:
DONNA SULLIVAN

CRISTO PROPERTY MANAGEMENT,
LTD., a/k/a G.J.L. LIMITED;
OAKWOOD PROPERTIES, INC.;
NATIONAL HOME FUNDING, INC.;
CAPITAL ASSETS PROPERTY
MANAGEMENT & INVESTMENT CO.,
INC.; CAPITAL ASSETS PROPERTY
MANAGEMENT, L.L.C.; WILLIAM
KANE; GARY GRIESER; ROBERT
SKOWRENSKI, II; RICHARD CALANNI;
RICHARD DiBENEDETTO; JAMES R.
BROWN; THOMAS BRODO; ROLAND
PIERSON; STANLEY YACKER, ESQ.;
MICHAEL ALFIERI, ESQ.; RICHARD
PEPSNY, ESQ.; ANTHONY M.
CICALESE, ESQ.; LAWRENCE CUZZI;
ANTHONY D'APOLITO; DAP
CONSULTING INC.; COMMONWEALTH
LAND TITLE INSURANCE CO.;
NATIONS TITLE INSURANCE OF
NEW YORK, INC.; FIDELITY
NATIONAL TITLE INSURANCE CO.
OF NEW YORK, INC.; COASTAL
TITLE AGENCY; DONNA PEPSNY;
WEICHERT REALTORS; and VECCHIO
REALTY, INC., d/b/a MURPHY
REALTY BETTER HOMES AND
GARDENS

Defendants. :

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Job No. NJ352197

1 TRANSCRIPT of the stenographic notes of
2 the proceedings in the above-entitled matter, as
3 taken by and before JANET BAILYN, a Certified
4 Shorthand Reporter and Notary Public of the State of
5 New Jersey, held at the office of STONE & MAGNANINI,
6 150 John F. Kennedy Parkway, Short Hills, New Jersey,
7 on September 20, 2011, commencing at 10:00 in the
8 forenoon.

1 and the claim report I believe went into the computer
2 system so it was accessible by home office. I know
3 that home office was certainly aware of the Walsh
4 claim. I don't know the time frame.

5 Q. Further down on that page underneath,
6 "Subsequent Reporting," but before those numbered
7 paragraphs it states: "The claims officer should
8 complete and file a claim update form CLT-3083," and
9 then it lists several circumstances when the claim
10 update form needs to be completed. And that form is
11 actually Exhibit 8 to the claims manual. Do you know
12 whether or not those claim update forms were ever
13 issued on these properties?

14 A. I don't know that that form was ever
15 used.

16 Q. Okay. On page 23879 underneath
17 "Reserving Practices. Claims officers must establish
18 a reserve for each claim, which represents a
19 realistic estimate of the anticipated net loss to the
20 insurer based upon the facts then known."

21 Do you know if a claim reserve was made
22 on the Walsh Securities properties?

23 A. I know there is a claims reserve.

24 Q. What is it?

25 MR. KOTT: Hold on. Excuse me. Was the

1 the question how much?

2 MR. MEE: Yes.

3 MR. KOTT: I'm inclined to instruct the
4 witness not to answer but maybe you can tell me why
5 I'm wrong on that.

6 MR. MEE: I think you're wrong because
7 it's not privileged. Whether Commonwealth decided to
8 establish a reserve probably occurred prior to your
9 being hired as counsel. This is --

10 MR. KOTT: Not correct.

11 MR. MEE: Even if it -- even if you were
12 hired as counsel at the time, I would imagine that
13 it's a normal business practice and procedure. How
14 would that be privileged?

15 MR. KOTT: Well, just like reporting to
16 me is a normal business, asking me questions is a
17 normal business --

18 MR. MEE: I'm asking for the amount, not
19 whether or not you had discussions with her about how
20 much the amount should be.

21 MR. KOTT: I want to talk to her
22 outside.

23 MR. MEE: Because this question is
24 pending I think it's inappropriate for you to pull
25 the client out and have a discussion with her.

1 MR. KOTT: Not if it involves privilege.
2 I can pull the client out if it involves privilege
3 and that's what I'm asking her about.

4 MR. MEE: What basis do you have to say
5 it's privileged?

6 MR. KOTT: That's why I want to talk to
7 her about it.

8 (A recess takes place.)

9 MR. KOTT: Mr. Mee, I have instructed
10 the witness not to answer so you can proceed to your
11 next question.

12 MR. MEE: Actually I would like to know
13 your basis for instructing her not to answer.

14 MR. KOTT: The basis is privilege, work
15 product privilege of the party and of the attorney.

16 MR. MEE: It's an underlying fact --

17 MR. KOTT: Hold on. I'm not finished.

18 MR. MEE: Sorry.

19 MR. KOTT: Also could not lead to
20 discoverable evidence. That's an objection, that's
21 not the grounds for instructing her, but that's part
22 of the objection, but it deals with how the client
23 evaluates the case for settlement and I don't think
24 you're entitled to that.

25 MR. MEE: I think that it actually deals

1 with how the client handled this claim by Walsh
2 Securities. It's an underlying fact in this case.
3 Whether or not she had communicated with you about --
4 or whether or not Commonwealth had communicated with
5 you about how much the amount should be, that's not
6 what I'm asking. I'm asking for a fact of whether or
7 not there is a reserve and the fact of what that
8 amount is. So if she's not going to answer the
9 question, then we're going to have to take this to
10 the judge and we're going to have to continue this
11 deposition.

12 MR. KOTT: I don't know what you mean
13 by -- I know what you mean by continue --

14 MR. MEE: Continuance of the deposition.

15 MR. KOTT: Finish the dep and then you
16 can take it to the judge and if the judge says we
17 have to produce that info I will let you know what it
18 is. If Judge Shipp says that Commonwealth must
19 disclose that, I will send you a letter and disclose
20 what it is but let's finish for today.

21 MR. MEE: Sounds good.

22 (The pending question is read by the
23 court reporter.)

24 Q. Do you know when the claims reserve was
25 made?